

AN ACT concerning finance.

**Be it enacted by the People of the State of Illinois,
represented in the General Assembly:**

Section 5. The State Prompt Payment Act is amended by changing Section 7 as follows:

(30 ILCS 540/7) (from Ch. 127, par. 132.407)

Sec. 7. Payments to subcontractors and material suppliers.

(a) When a State official or agency responsible for administering a contract submits a voucher to the Comptroller for payment to a contractor, that State official or agency shall promptly make available electronically the voucher number, the date of the voucher, and the amount of the voucher. The State official or agency responsible for administering the contract shall provide subcontractors and material suppliers, known to the State official or agency, with instructions on how to access the electronic information. When a contractor receives any payment, the contractor shall pay each subcontractor and material supplier in proportion to the work completed by each subcontractor and material supplier their application less any retention. If the contractor receives less than the full payment due under the public construction contract, the contractor shall be obligated to disburse on a pro rata basis those funds received, with the contractor, subcontractors and material suppliers each receiving a prorated portion based on the amount of payment. When, however, the public owner does not release the full payment due under the contract because there are specific areas of work or materials the contractor is rejecting or because the contractor has otherwise determined such areas are not suitable for payment, then those specific subcontractors or suppliers involved shall not be paid for that portion of work rejected or deemed not suitable for payment and all other subcontractors

and suppliers shall be paid in full.

(b) If the contractor, without reasonable cause, fails to make full any payment of amounts due under subsection (a) to his subcontractors and material suppliers within 15 days after receipt of payment under the public construction contract, the contractor shall pay to his subcontractors and material suppliers, in addition to the payment due them, interest in the amount of 2% per month, calculated from the expiration of the 15-day period until fully paid. This subsection shall also apply to any payments made by subcontractors and material suppliers to their subcontractors and material suppliers and to all payments made to lower tier subcontractors and material suppliers throughout the contracting chain.

(1) If a contractor, without reasonable cause, fails to make payment in full as provided in subsection (a) within 15 days after receipt of payment under the public construction contract, any subcontractor or material supplier to whom payments are owed may file a written notice with the State official or agency setting forth the amount owed by the contractor and the contractor's failure to timely pay the amount owed.

(2) The State official or agency, within 15 days after receipt of a subcontractor's or material supplier's written notice of the failure to receive payment from the contractor, shall hold a hearing convened by an administrative law judge to determine whether the contractor withheld payment, without reasonable cause, from the subcontractors and material suppliers and what amount, if any, is due to the subcontractors and material suppliers. The State official or agency shall provide appropriate notice to the parties of the date, time, and location of the hearing. Each contractor, subcontractor, and material supplier has the right to be represented by counsel at the hearing and to cross-examine witnesses and challenge documents.

(3) If there is a finding by the administrative law

judge that the contractor failed to make payment in full, without reasonable cause, as provided in subsection (a), then the administrative law judge shall, in writing, direct the contractor to pay the amount owed to the subcontractors and material suppliers plus interest within 15 days after the finding.

(4) If a contractor fails to make full payment within 15 days after the administrative law judge's finding, then the contractor shall be barred from entering into a State public construction contract for a period of one year beginning on the date of the administrative law judge's finding.

(Source: P.A. 87-773.)